

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

PROMEGA CORPORATION,

Plaintiff,

v.

MAX-PLANCK-GESELLSCHAFT ZUR
FORDERUNG DER WISSENSCHAFTEN, E.V.,

Involuntary Plaintiff,

v.

LIFE TECHNOLOGIES CORPORATION,
INVITROGEN IP HOLDINGS, INC. and
APPLIED BIOSYSTEMS, INC.,

Defendants.

ORDER

10-cv-281-bbc

On January 25, 2012 at 11:00 a.m., a telephone hearing was held on defendants Life Technologies Corporation, Invitrogen IP Holdings, Inc. and Applied Bio Systems, Inc.'s motion to compel third party licenses [Dkt. 365]. Appearing for Promega were Sarah Troupis and Peter Carroll. Appearing for defendants was Kristine Johnson.

Plaintiff objected to production of the documents contending that the request was untimely and that the document themselves were irrelevant to the issues for trial.

Although the three licenses at issue do not relate to the patents in suit, they are potentially relevant to both the issue of lost profits and to the determination of a reasonable royalty in the damages phase of trial. Because defendants' earlier requests for production of documents encompassed documents relevant to those issues, I conclude that the request is timely and the documents are discoverable.

Because the plaintiff's resistance to discovery of the license agreements was substantially justified, each side bears its own costs of the motion.

ORDER

IT IS ORDERED that defendants' motion to file a reply brief [Dkt. 434] and its motion to compel production of three license agreements [Dkt. 365] are GRANTED.

IT IS FURTHER ORDERED that each party shall bear its own costs related to this motion.

Dated the 26th day of January, 2012.

BY THE COURT:

A handwritten signature in cursive script, reading "Peter Oppeneer".

PETER A. OPPENEER
Magistrate Judge